

TAB 111

Condensed Transcript

Deposition of Roxane 30(b)(6) Judy Waterer

**taken on
May 9, 10 and 11, 2007**

**State of Alabama
v.
Abbott Laboratories, Inc., et al.**

Case No. 2005-219



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Judy Waterer
May 9, 2007

<p style="text-align: right;">Page 102</p> <p>1 A. I don't know how they pick 2 drugs, so I can't -- I've never been a 3 purchaser at a retail pharmacy. 4 Q. Is Roxane concerned with the 5 methods used by pharmacists to select drugs? 6 A. We're concerned that they -- 7 that we'd be on a level playing field, and 8 that they'd be willing to accept our product. 9 We generally compete on contract price. 10 Q. Well, what's the relevance of 11 contract price to a pharmacist if that 12 pharmacist didn't purchase the drugs directly 13 from Roxane and receives compensation by way 14 of reimbursement? 15 MS. WITT: Object to the form. 16 A. I'm -- what's the relevance of 17 the contract price? They want to buy it as 18 cheaply as they can. 19 Q. Well, I mean, there's no 20 contract price involved at that level, 21 correct? I mean, when you have a pharmacist 22 who is making drug decisions based on a 23 spread, the pharmacist's concern is the 24 spread, not the contract price, correct? 25 MS. WITT: Object to the form.</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. So it's your testimony that 2 Roxane has never concerned itself with the 3 competitor's price and tried to market the 4 spread to gain market share away from that 5 competitor? 6 A. It -- again, on a very rare 7 instance, there may have been something that 8 had to do with the difference in AWP's. It 9 would not be our general practice. It would 10 be a very rare occasion. 11 Q. But it has happened, correct? 12 A. Okay. Give me the question 13 again, because I want to make sure it's very 14 specific. 15 Q. Has Roxane ever concerned 16 itself with marketing the spread to the 17 extent that it attempted to market the spread 18 and gain market share from a competitor? 19 MS. WITT: Object to the form. 20 A. It's possible. 21 Q. It's very possible, isn't it? 22 MS. WITT: Object to the form. 23 A. I don't have any -- I can't 24 recollect that. 25 Q. I mean, there's no purpose in</p>
<p style="text-align: right;">Page 103</p> <p>1 A. I don't know what pharmacists 2 are deciding on. 3 Q. Is it your testimony that 4 Roxane is simply not concerned with the 5 methods that pharmacists use to pick drugs? 6 A. We don't have knowledge. When 7 we go out and we try to get business awarded, 8 we compete based upon contract price. 9 Q. Has Roxane ever concerned 10 itself with the spread as it relates to the 11 pharmacists' reimbursement? 12 A. If there was an exceptional 13 instance where our pricing was out of line -- 14 I think I talked about, I believe it was 15 Furosemide -- in an exceptional case where it 16 was brought to our attention, we might take 17 steps to bring ourselves into the average or 18 norm of what everybody else is doing. 19 But in the industry, most 20 everybody's pricing is set very similar so 21 that the spread issue isn't something that 22 generally comes up. If everybody's pricing 23 is in the same average area, you're competing 24 on the contract price. That's generally what 25 occurs in the negotiation.</p>	<p style="text-align: right;">Page 105</p> <p>1 marketing the spread other than to gain 2 market share, correct? 3 A. What do you mean when you say 4 "market the spread"? 5 Q. You don't know what that means? 6 A. I want to make sure that it 7 means the same to both of us. I've heard it 8 defined different. 9 Q. You tell me what it means. 10 A. When I hear the term "market 11 the spread," being a marketing person, I 12 think that it is an active initiative, a 13 directive to go out and make this your 14 standard process for selling. 15 Q. And Roxane has utilized that 16 tactic, correct? 17 A. I believe there may have been a 18 few instances of it, yeah. I don't recall 19 any specifics. 20 Q. What's an FUL? 21 A. Don't know. 22 Q. Ever heard the term "federal 23 upper limit"? 24 A. I may have. I don't remember. 25 Q. Speaking on behalf of Roxane,</p>

27 (Pages 102 to 105)